

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**MALCOLM D. SMITHSON, et al.,**

Plaintiffs,

vs.

No. 1:06-cv-0624 MCA/RLP

**AMERADA HESS CORPORATION n/k/a  
HESS CORPORATION,**

Defendant.

**ORDER**

**THIS MATTER** comes before the Court on *Defendant Hess Corporation's Emergency Motion for Enforcement of this Court's Memorandum Opinion and Order and Objection to Plaintiff's Attempt to Arbitrate Non-Arbitrable Claims in the Arbitration Proceedings to be Held June 15, 2009* [Doc. 159], filed May 29, 2009. For the reasons stated below, as well as those stated on the record at the telephone hearing held June 5, 2009, the Motion is **DENIED**.

Defendant asserts that Plaintiffs are attempting to arbitrate nonarbitrable claims, and requests the Court to enjoin Plaintiffs from attempting "to arbitrate their 'purchase price' claims and any claims other than 'disputes over 'price' or value.'" [Doc. 159 at 9.] The Court presumes, however, that the learned arbitration panel is fully capable of distinguishing arbitrable issues from nonarbitrable issues, and further, that it is able to comprehend and apply the Court's *Memorandum Opinion and Order* [Doc. 141], entered September 26, 2009, and the *Order Directing Arbitration and Further Proceedings* [Doc. 149], which was

submitted jointly by the parties, and entered by the Court on November 3, 2008. The Court presumes also that the parties will comply with such directives. Accordingly, the Court declines to intervene in the arbitration process.

To the extent Plaintiffs seek reconsideration of the Court's prior rulings in this matter, the request is denied.

**SO ORDERED** this 5th day of June 2009, in Albuquerque, New Mexico.



**M. CHRISTINA ARMIJO**  
United States District Judge